

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6466

BILL NUMBER: HB 1570

NOTE PREPARED: Jan 15, 2009

BILL AMENDED:

SUBJECT: Deposit on Beverage Containers.

FIRST AUTHOR: Rep. Tincher

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill requires returnable beverage containers to be used beginning in 2010. It requires a ten cent refundable deposit on each of these containers. It allows manufacturers or distributors to be the originator of the deposit. It also requires retailers to make cash refunds to consumers. It requires distributors to make cash refunds to retailers.

The bill requires an originator of deposits to file a deposit report with the state and pay any excess deposits it collects. The bill provides that deposits that escheat to the state are to be used to compensate retailers for taking returns, to cover administrative costs of the state, and to provide revenue to the Indiana Heritage Trust Fund. It provides that the Department of State Revenue is the administrator of the program.

This bill imposes a penalty for a general violation of the law of not less than \$100 and not more than \$1,000 plus costs and attorney fees associated with a civil action filed to collect the penalty. It provides that a person that returns or attempts to return nonreturnable containers commits either: (1) a Class C infraction if it involves at least 25 but not more than 100 nonreturnable containers; or (2) a Class C misdemeanor if it involves more than 100 nonreturnable containers or is a second or subsequent violation. The bill also requires that the person must also pay the amount of loss caused to the retailer by the violation. It requires retailers to post a sign setting forth these penalties.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The bill increases costs for the DOR to adopt rules, receive reports from distributors and manufacturers and audit, assess, and collect unclaimed deposit money. The cost of administering the program could be offset by 2% of the money in the Bottle Deposit Fund that is annually appropriated to the DOR to offset the cost of administering the program.

Explanation of State Revenues: *Bottle Deposit Fund:* This bill provides that a deposit of \$0.10 shall be paid upon removal of any beverage container containing a beverage from a sale or consumption area to be made into the Bottle Deposit Fund. A beverage in a returnable container may be consumed in a sale or consumption area without payment of a deposit. The bill provides that money deposited in the fund shall be distributed as follows:

1. 25% shall be paid to retailers to be apportioned to each retailer on the basis of the number of empty returnable containers handled by a retailer the previous year as determined by the DOR.
2. 2% is annually appropriated to the DOR to offset the cost of administering the program.
3. 73% to the Indiana Heritage Trust Fund established under IC 14-12-2.

Penalty Provision: The bill provides that a person that returns or attempts to return nonreturnable containers commits either: (1) a Class C infraction if it involves at least 25 but not more than 100 nonreturnable containers; or (2) a Class C misdemeanor if it involves more than 100 nonreturnable containers or is a second or subsequent violation. In addition, the bill requires a retailer to post a notice stating consequences of these violations. A retailer that fails to post a notice is subject to a civil penalty not to exceed \$50 for each day the failure continues.

The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. The maximum fine for a Class C misdemeanor is \$500. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. However, any additional revenue would likely be small. In addition, the bill provides that any other violation is subject to a civil penalty between \$100 and \$1000.

Indiana Heritage Trust Fund: The Indiana Heritage Trust Fund is established for the purpose of purchasing real property that: (1) is an example of outstanding natural features and habitats; (2) has historical and archeological significance; and (3) provides areas for conservation, recreation, and the restoration of native biological diversity.

Background Information: The bill provides that a distributor or manufacturer is to collect a \$0.10 deposit on a beverage in a beverage container sold to a retailer and a retailer is to collect a \$0.10 deposit from a consumer. When the consumer returns the beverage container to a retailer, the \$0.10 deposit is returned, and the distributor or manufacturer pays the retailer \$0.10 for each beverage container returned. A retailer does not charge a consumer who consumes a beverage from the beverage container on site and is not required to refund more than \$25.00 in any one day. Each beverage container is embossed, stamped, or labeled with indication of the refund value of the container and the name Indiana.

Background on Michigan's Uncollected Deposits: History for beverage containers in Michigan is available from 1990 to 2007. With deposits collected increasing from \$294.4 M in 1990 to \$409.5 M in 2007, on average 97.2% of the deposits have been refunded. The unclaimed deposits in the 17-year period have totaled \$227.2 M, ranging from \$6.6 M to \$23.5 M a year. In only one year during the 17 years did the deposits refunded exceeded deposits collected with 100.41% of the deposits being refunded.

Explanation of Local Expenditures: *Penalty Provision:* A Class C misdemeanor is punishable by up to 60 days in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely

to be small.

State Agencies Affected: DOR.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Thomas Patchak-Schuster, Michigan Department of Treasury.

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